

BILLY J. WILLIAMS, OSB #901366

United States Attorney

District of Oregon

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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

UNITED STATES OF AMERICA,

6:19-cv-00439-MA

Plaintiff,

COMPLAINT

v.

\$23,760.00 US Currency,
in rem,

Defendant.

Plaintiff, United States of America, by Billy J. Williams, United States Attorney for the District of Oregon, and Amy E. Potter, Assistant United States Attorney, for its complaint *in rem* for forfeiture, alleges:

I.

This Court has subject matter jurisdiction, *in rem* jurisdiction, and venue pursuant to 21 U.S.C. § 881; 28 U.S.C. §§ 1345, 1355, 1356, and 1395; and 19 U.S.C. § 1610.

II.

Defendant, *in rem*, \$23,760.00 US Currency, was seized in the District of Oregon, and is now and during the pendency of this action will be within the jurisdiction of this Court.

III.

Defendant, *in rem*, \$23,760.00 US Currency, represents proceeds traceable to an exchange for controlled substances or was used or intended to be used to facilitate such a transaction in violation of 21 U.S.C. § 841(a)(1), and is forfeitable to the United States pursuant to the provisions of 21 U.S.C. § 881(a)(6), as more particularly set forth in the declaration of Sean Cummings, Special Agent, Drug Enforcement Administration, marked as Exhibit A, attached and fully incorporated herein by this reference.

WHEREFORE, plaintiff, United States of America, prays that due process issue to enforce the forfeiture of defendant, *in rem*, \$23,760.00 US Currency; that due notice be given to all interested persons to appear and show cause why forfeiture of this defendant, *in rem*, should not be decreed; that due proceedings be had thereon; that this defendant be forfeited to the United States; that the plaintiff United States of America be awarded its costs and disbursements incurred in this action.

DATED: **March 26, 2019.**

Respectfully submitted,

BILLY J. WILLIAMS
United States Attorney

s/ Amy E. Potter
AMY E. POTTER
Assistant United States Attorney

VERIFICATION

I, Sean Cummings, declare under penalty of perjury, pursuant to the provisions of 28 U.S.C. Section 1746, that I am a Special Agent with the Drug Enforcement Administration and that the foregoing Complaint *in rem* for Forfeiture is made on the basis of information officially furnished and upon the basis of such information the Complaint *in rem* for Forfeiture is true as I verily believe.

s/ Sean Cummings
SEAN CUMMINGS
Special Agent
Drug Enforcement Administration

DECLARATION of SEAN CUMMINGS

I, SEAN CUMMINGS, do hereby declare:

BACKGROUND/EXPERIENCE

1. I am a Special Agent with the Drug Enforcement Administration (DEA). I have been employed in the field of law enforcement since 1992 and have worked as a Dispatcher, Police Services Officer, Reserve and Police Officer for the City of Eureka Police Department in Eureka, California. I was later promoted to Detective and, while employed there, assigned to the Bureau of Narcotics Enforcement Task Force with primary responsibility to investigate controlled substance offenses. I have been employed as a DEA Special Agent since July 1999.

2. I completed the 17-week DEA Basic Agent Training program in Quantico, VA. The training focused on methods of unlawful drug trafficking; the identification of controlled substances; the means by which drug traffickers derive, launder, and conceal their profits from drug trafficking; the use of assets to facilitate unlawful drug trafficking activities; and the law permitting the forfeiture to the United States of assets purchased with drug proceeds or assets intended to be used to facilitate the drug violations. My specialized training has included, but is not limited to, the investigation of the manufacture, possession, and distribution of controlled substance listed within the Controlled Substance Act; executing search and arrest warrants involving drug offenses; gathering drug and non-drug evidence; participating in undercover assignments; supervising and utilizing informants; investigating clandestine laboratories, smuggling, and money laundering; and monitoring drug-related conversations via Court authorized electronic eavesdropping.

3. During my employment as a DEA Special Agent, I have participated in investigations involving all of the above knowledge and skills. Through the course of my employment, I also

know that controlled substance traffickers often use another person's vehicles or register their vehicles in another party's name to hide assets and their identity from law enforcement. I know from my training and experience that controlled substance traffickers and their criminal associates use cash to hide illicit income from law enforcement and avoid paying taxes on that illicit income.

PURPOSE OF THIS DECLARATION

4. This declaration establishes that there is probable cause to believe that \$23,760.00 in U.S. Currency which was seized by the Springfield Police Department (SPD) is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6) as it constitutes or was derived from proceeds traceable to violations of 21 U.S.C. § 841(a)(1). This declaration does not include all of the facts known to me regarding this investigation, only those sufficient to establish probable cause to seize the above referenced assets.

SUMMARY OF THE INVESTIGATION

5. On Tuesday, August 7, 2018 at approximately 4:30 pm, SPD received a report from Maria Cortez that someone stole a blue Ford Mustang from the King's Court Apartment complex in Springfield, OR belonging to her friend, Angel Armas-Vasquez. SPD was dispatched to the area and located the vehicle within minutes. There was only one person in the vehicle: the driver James Caudy. SPD arrested Caudy. While conducting a search incident to arrest of Caudy, SPD located a large bag of methamphetamine in his front pocket along with a digital scale. SPD asked for consent to search the car, and Caudy said yes. In the car, SPD recovered a short-barreled rifle in a bag in the front passenger seat and three magazines, two of which were loaded. SPD found \$23,760.00 tightly packaged in zippered baggies and another rifle in the trunk.

6. Caudy was interviewed and stated that he was friends with Leah Marshall who lived in an apartment at King's Court. Caudy said that Marshall told him she was afraid because Armas-Vasquez and his girlfriend Cortez had been staying at her apartment and she thought they had ties to a drug cartel. Caudy said that Marshall had asked him for help getting away from the apartment. She asked him to take her car, which she identified as the blue Mustang, and get it away from the other people at the apartment. On August 7, he came over to the apartment and Marshall made up a story about needing to leave for court and left on her motorcycle. Caudy then waited for the right moment, when Armas-Vasquez was in the shower, to take the keys to the Mustang, which were in Armas-Vasquez's hat. As he was leaving, Caudy grabbed Armas-Vasquez's rifle, the ammunition, and the methamphetamine. He put the methamphetamine in his pocket and the other items in the car. He was supposed to meet Marshall, but was stopped by the police shortly after he left. SPD asked Caudy about the rifle and the cash in the trunk, and he said he knew nothing about it and had never looked in the trunk. Caudy was ultimately arrested on state charges. He had a prior conviction for possession of methamphetamine.

7. Officer Eric Sorby with Springfield Police deployed his K-9 Danner on the seized currency. K-9 Danner had a positive alert to controlled substances on the currency. K-9 Danner is a certified drug detection dog trained to detect three drugs: methamphetamine, cocaine and heroin.

8. Marshall was interviewed briefly over the phone. She said that Caudy was supposed to take her Chevy Avalanche truck, not Armas-Vasquez's Mustang. She initially denied having any property in the Mustang, but when SPD asked her if it was possible that someone took a large sum of money from her apartment, she said she did have approximately \$17,000.00 in Ziploc bags under her mattress.

9. While the traffic stop was being conducted, SPD officers went to the apartment to speak with Armas-Vasquez. He was at Marshall's apartment with his girlfriend, Mariah Cortez. He confirmed that Caudy did not have permission to take the vehicle and that the firearms and money found in the vehicle belonged to him. SPD told Armas-Vasquez that they located his car and subsequently left the apartment.

10. A short time later, SPD determined that Armas-Vasquez was the subject of a no-contact order prohibiting him from having contact with Cortez. SPD returned to the apartment and asked Armas-Vasquez more questions about the stolen vehicle. Armas-Vasquez explained that he and Cortez had moved up here from Tempe, AZ and had only been in the area for a few weeks. They had been couch-surfing until they met Marshall, who let them stay at the apartment. He explained that Caudy had been hanging out at the apartment and while Armas-Vasquez was taking a shower, Caudy stole his guns, his money, and his car. The SPD officer asked him specifically about how he purchased the firearms and whether the short-barreled shotgun was his. Armas-Vasquez said the lower parts of the gun were his but the short barrel was not. He stated that he had no idea how it got attached to the rifle. He admitted acquiring the guns within the last two weeks in Oregon. He said they were a gift, but he could not or would not say who had given them to him. He admitted he had not done a firearms transfer as required. When asked about the money, Armas-Vasquez said it was his and Cortez's savings and money he had acquired from selling personal property. He said he previously worked as a "day trader." Armas-Vasquez was taken into custody for violating the protection order and transported to the Lane County Jail.

11. The DEA adopted the \$23,760.00 for administrative forfeiture. Notices were sent to Caudy, Marshall, Cortez, and Armas-Vasquez. Only Armas-Vasquez filed a claim for the currency. In the claim, he stated that he sold a white vintage guitar for \$24,000.00 in cash on

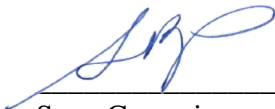
Saturday, August 4, 2018, and he was unable to deposit it that day because it was Saturday. He said the money was placed in plastic bags to prevent physical damage and he was storing it in the trunk of his Mustang until it could be deposited. He spent \$240 over the following three days on lavish dinners and gas. On Tuesday, August 7, 2018, his vehicle was stolen by Caudy along with the remaining currency. He provided no explanation as to why he did not deposit the currency on Monday or Tuesday prior to the vehicle being stolen. Attempts to contact Armas-Vasquez to discuss his claim have been unsuccessful.

CONCLUSION

12. Based on the foregoing and my training and investigative experience, I have probable cause to believe that the \$23,760.00 in U.S. Currency is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6), as it constitutes or was derived from proceeds traceable to a specified unlawful activity, possession and distribution of controlled substances, a violation of 21 U.S.C. § 841(a)(1).

I declare under penalty of perjury that the foregoing is true and correct pursuant to 28 U.S.C. §1746.

Executed this 26th day of March 2019.



Sean Cummings
Special Agent
Drug Enforcement Administration

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____